

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of a                    )  
temporary emergency rule closing a                )  
portion of Rock Creek in Granite and            )  
Missoula Counties                                    )

NOTICE OF ADOPTION OF A  
TEMPORARY EMERGENCY RULE

TO: All Concerned Persons

1. The Fish, Wildlife and Parks Commission (commission) believes the following reasons justify the adoption of a temporary emergency rule:

(a) There is an immediate need for a source of water for aircraft dropping water on the Sawmill Complex fires.

(b) Helicopters will be dipping water from the confluence where Stony Creek flows into Rock Creek to the confluence where Rock Creek flows into the Clark Fork River. The helicopters scoop water with a large bucket while hovering over the surface of Rock Creek.

(c) The area where helicopters will be dipping water is a fairly narrow canyon that provides little maneuverability for aircraft.

(d) Persons on the Rock Creek recreating while aircraft are loading water would be in danger of collision with aircraft and aircraft equipment that could result in injury or death. Furthermore, flight crews would be subjected to increased and additional peril if aircraft had to maneuver narrow passageways and high cliff walls to avoid recreationists.

(e) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the commission adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 17 of the 2007 Montana Administrative Register.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 13, 2007, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail [jesnyder@mt.gov](mailto:jesnyder@mt.gov).

3. The temporary emergency rule is effective August 15, 2007, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

RULE I ROCK CREEK TEMPORARY EMERGENCY CLOSURE (1) Rock Creek is located in Granite County and Missoula County.

(2) Rock Creek from the confluence where Stony Creek flows into Rock Creek to the confluence where Rock Creek flows into the Clark Fork River is closed to all boating, floating, and swimming and any other public occupation of the river.

(3) This rule is effective as long as Rock Creek is needed as a source of water for fighting wildfires. The commission delegates its authority to the department, in consultation with the commissioner in the region, to determine when Rock Creek is again safe for boating, floating, and swimming and any other occupation of the water and to rescind the temporary emergency closure.

AUTH: 2-4-303, 87-1-303, MCA

IMP: 2-4-303, 87-1-303, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule will expire as soon as the department determines the closed area of Rock Creek is again safe for boating, floating, and swimming and any other occupation of the creek. This will depend on the extent and duration of wildfires in the area. Signs restricting use of the creek will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jessica Snyder, Legal Unit, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; or e-mail [jesnyder@mt.gov](mailto:jesnyder@mt.gov). Any comments must be received no later than September 14, 2007.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ Christian A. Smith  
Christian A. Smith,  
Chief of Staff  
Department of Fish, Wildlife and Parks  
Acting Secretary  
Fish, Wildlife and Parks Commission

/s/ Robert N. Lane  
Robert N. Lane  
Rule Reviewer

Certified to the Secretary of State August 15, 2007.